

No. 9/6/86-6Lab./6533.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of Administrator Municipal Committee, Jagadhri.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Ref. No. 291 of 1984

(Old No. 397 of 1983)

SHRI PREM PAL, WORKMAN AND THE MANAGEMENT OF THE MESSRS
ADMINISTRATOR, MUNICIPAL COMMITTEE, JAGADHRI.

Present :—

Shri Surinder Sharma for workman.

Shri S. Bindra, for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—vide clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Prem Pal C/o Dr. Surinder Kumar Sharma, Intuc Office, Railway Road, Jagadhri and Municipal Committee, Jagadhri originally to Labour Court, Faridabad. The terms of the reference are as under :—

“Whether termination of services of Shri Prem Pal, workman is justified and correct? If not, to what relief is he entitled?”

Labour Court was constituted at Ambala in April, 1984, so this reference was received by transfer.

Workman through his demand notice alleged that he had been serving the respondent-management as a peon at Octroi post for the last four years since 16th July, 1979. His services were terminated on 14th May, 1983 in violation of section 25 (F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and full back wages.

Respondent management contested the dispute and contended that Deputy Commissioner, Ambala is an appointing authority of employees of Municipal Committee, Jagadhri. He was not impleaded as a party to this dispute. So it was contended that reference is bad for non-joinder of necessary parties. It was further contended that workman was appointed on daily wages from time to time with the approval of Deputy Commissioner, as detailed in para No. 1 of the reply. It was further contended that there after Deputy Commissioner Ambala issued instructions to Administrator, Municipal Committee, Jagadhri that vacancy be filled up through Employment Exchange. Requisition was sent to Employment Officer, Yamuna Nagar. The list of candidates was received but the candidature of Prem Pal workman was not sponsored by the Employment Exchange Officer. So he could not be interview nor he could be selected.

On the pleadings of the parties the following issues were framed :—

Issues :

1. Whether termination order dated 14th May, 1983 justified and correct, if so, its effects? OPM
2. Whether reference is bad for non joinder of necessary parties? OPM
3. Relief.

I have heard Shri Surinder Sharma for workman and Shri S. Bindra for respondent-management and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under :—

Issue No. 1

In support of this issue management examined MW-1. Shri Brij Bhushan he deposed that workman Prem Pal was employed on daily wages from time to time with the approval of Deputy Commissioner, Ambala. Under the orders of Deputy Commissioner, Ambala the vacancy of class IV were to be fill

up through Employment Exchange. A Requisition was sent to Employment Exchange Officer, Yamuna Nagar but name of Prem Pal was not recommended by the Employment Exchange Officer, Yamuna Nagar. So he could not be selected. AW-1 Prem Pal stated that he had been in regular employment of respondent-management but he was illegally terminated by the respondent without issuing any notice or without making payment of any retrenchment compensation etc. In view of the above evidence I am of the considered opinion that workman has been working on daily wages. From time to time he was given a employment strictly for limited period which did not create any lien for him in the job of the respondent management. He was taken direct in employment by the respondent-management on daily wages whenever work existed he was kept on rolls, when the work exhausted the workman was out of job. Under the Instructions Deputy Commissioner, Ambala the Administrator, Municipal Committee, Jagadhri sent a requisition to the Employment Exchange Officer, Yamuna Nagar to sent suitable candidates for the post of Octori Peon. In that list name of workman Prem Pal was not forwarded due to that fact he could not appear in interview nor he could be selected in these circumstances. I hold that the employment of workman on daily wages was over a limited period. As soon as the period was over his right of employment automatically came to an end, so at the time of alleged termination he was not entitled to any notice or pay, in lieu of notice period no retrenchment compensation, so this issue is decided, in favour of management against workman.

Issue No. 2

It is a fact that Deputy Commissioner, Ambala has not been impleaded as a party to this litigation but Administrator, Municipal Committee under whose orders services of workman came to an end was impleaded as a party to this litigation. The law of Civil Procedure Code is not strictly applicable to the proceedings of the Industrial Disputes Act, so non joining Deputy Commissioner, Ambala as a party to this litigation is although technical infirmity not at all bad in Industrial Dispute case, so this issue is decided against management, in favour of workman.

Issue No. 3

For the foregoing reasons on the basis of my findings on issue No. 1 the relief claimed by the workman under this reference is declined leaving the parties to bear their own costs.

V. P. CHAUDHARY,

Dated 23rd June, 1986.

Presiding Officer,
Labour Court, Ambala.

Endst. No. 1809, dated the 28th June, 1986.

Forwarded (four Copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-6Lab./6534.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of Municipal Committee through Administrator, Jagadhri:—

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Ref. No. 23 of 1984

SHRI MAN MOHAN, WORKMAN AND THE MANAGEMENT OF THE MESSRS MUNICIPAL
COMMITTEE THROUGH ADMINISTRATOR, JAGADHAI

Present:—

Shri Surinder Sharma for workman.

Shri S. Bindra for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—vide clause (c) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Man Mohan C/o Shri Surinder Sharma, INTUC Office, Railway Road, Jagadhri and Administrator, Municipal Committee, Jagadhri to this Court. The terms of the reference are as under:—

“Whether termination of services of Shri Man Mohan workman is justified and correct, if not, to what relief is he entitled?”

Workman through his demand notice alleged that he had been in the employment of respondent-management as a Octroi Moharar since 1st August, 1979. He served the respondent management up to 30th May, 1983 to the entire satisfaction of the respondent on 30th May, 1983 his services were terminated in violation of section 25 (F) of Industrial Disputes Act, 1947. Workman alleged that he be got reinstated with relief of continuity in service and with full back wages.

Respondent-management contested the dispute and contended that Deputy Commissioner, Ambala is an appointing Authority but he has not been impleaded party to this dispute, so the reference is bad for non-joinder of necessary parties. It was further contended that workman was employed purely on daily wages basis. So at the time of termination of his services compliance of section 25 (F) was not essential. It was further contended that for the employment of workman sanction from time to time was obtained by the M. C. Jagadhri from Deputy Commissioner, Ambala and later on D. C., Ambala issued direction to the Administrator Municipal Committee, Jagadhri that the vacancies of Octroi Moharar be filled up through Employment Exchange. Requisition was sent to Employment Exchange. No suitable candidates was sent for interview. Thereafter posts were advertised. Applicant also submitted his application for considering him for the appointment of an Octroi Moharar but he was found over age, so his nomination was rejected.

On the pleadings of the parties the following issues were framed for the just decision of the controversy between the parties.

Issues :—

1. Whether termination order dated 30th May, 1983 is according to law, if not its, effect ? OPR
2. Whether the reference is bad for non-joinder of necessary parties.
3. Relief.

I have heard Shri Surinder Sharma for workman and Shri S. Bindra for respondent management and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under :—

Issue No. 1

A bare reading of statement of Shri Ved Parkash Kalra, Octroi Superintendent MW-1 and Shri Antu Ram Saini, Secretary, M. C. Jagadhri it is admitted fact that workman Man Mohan has been coming in the service of respondent management since August 1979 and this fact has been alleged by the workman himself when he appeared as AW-1. There is no dispute that the workman had been employed on daily wages basis from time to time with the approval of D. C. Ambala. It is also admitted fact between the parties that Deputy Commissioner, Ambala issued instructions to Administrator Municipal Committee, Jagadhri that the existing post including the post against which Shri Man Mohan had been working be filled through Employment Exchange. Consequently an requisition was sent to Employment Exchange but no suitable candidate was made available by the Employment Exchange due to that fact the Deputy Commissioner, Ambala empowered Administrator Municipal Committee, Jagadhri to fill up the existing post on the basis of advertisement. After obtaining NOC from Employment Exchange, accordingly this procedure was followed. Workman Man Mohan also applied for his selection but his application was rejected on the ground that he had attained age of 32 years.

The crucial point before the undersigned is for consideration is that whether Man Mohan workman should have been selected or not the answer is in the affirmative. I am of the considered view that workman Man Mohan had been coming in the employment respondent management since August 1979. Although on daily wages but he was in the employment of respondent management. Nothing has come on the file that since August, 1979 up to May 1983 the conduct and behavior of the Man Mohan workman was unsatisfactory which shows that his record was good and he should have been selected by the respondent management and should not have been rejected his candidature on the basis that on that day he was of the age of 32 years. His age should have been considered from August 1979 because he had been coming

in the service of respondent management since August 1979. So the rejection of candidature of workman is against law and also against the principle of natural justice and I hold that he is entitled to reinstatement with continuity in service and with full back wages. So this issue is decided, in favour of workman, against the management.

Issue No. 2

This issue is strictly a technical issue. The whole of the C. P. C. is not applicable in Industrial Disputes Cases, so I hold that even if Deputy Commissioner, Ambala was not made party to this litigation in those circumstances the claim of the workman is not vitiated in any respect, so this issue is decided against the management, in favour of workman.

Issue No. 3

For the foregoing reasons on the basis of my findings on issue No. 1, I order reinstatement of workman with continuity in service and with full back wages. I pass award regarding the dispute between the parties accordingly.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Dated, the 23th June, 1986.

Endorsement No. 1810, dated the 28th June, 1986.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-6Lab/6535.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of Modern Ex-Serviceman Engg. Company, 208 Ancillary Industrial Estate, Panchkula (Ambala):—

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Reference No. 236 of 1984

(Old No. 16 of 1984.)

between

SHRI RAJINDER PAUL, WORKMAN SON OF SHRI BANT RAM, VILLAGE GAJIPUR
P. O. DHAKOLI, DISTRICT PATIALA AND THE MANAGEMENT OF THE MESSRS
MODERN EX-SERVICE MAN ENGG. COMPANY, 208, ANCILLARY INDUSTRIAL ESTATE,
PANCHKULA (AMBALA).

Present :—

Shri Abhey Singh, for workman.

Shri D. K. Soi, for respondent.

AWARD

The Hon'ble Governor of Haryana, in the exercise of powers conferred,—vide clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred dispute, between Shri Rajinder Paul workman and Messrs Modern Ex-service man Engg. Company, Panchkula originally to Labour Court, Faridabad. The terms of the reference are as under:—

“Whether the termination of services of Shri Rajinder Paul is just and correct? If not, to what relief is he entitled?”

In April 1984 Labour Court was created at Ambala, so this reference was received by transfer.

Workman through his demand notice alleged that he had been coming in the service of respondent management for the last many years. His services were terminated without any cause or reason on 11th August, 1983, in violation of section 25 (F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Notice of this dispute was served upon the respondent management. It contested the dispute and contended that respondent management has not been properly sued. It was further contended that the workman left the job of the respondent management of his own after taking full and final payment. On the pleadings of the parties issues were framed.

The parties compromised during the pendency of trial of this dispute. Management agree to pay Rs. 6,500 as a compensation against all the reliefs claimed by the workman which was accepted by the workman himself. Today a cheque of Rs. 6,500 has been delivered to the workman. Accordingly the dispute between the parties stands disposed of as compromised. I pass award regarding the dispute in hand accordingly.

Dated the 27th June, 1986.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endorsement No. 1836, dated 28th June, 1986.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

No. 9/86-6Lab./6536.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act, No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of (i) The Secretary, Haryana State Electricity Board, Chandigarh (ii) The Executive Engineer, H. S. E. B. Near Raghu Nath Mandir Yamuna Nagar Road, Jagadhri.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Ref. No. 64 of 1984

SAT PAL WORKMAN AND THE MANAGEMENT OF THE SECRETARY
HARYANA STATE ELECTRICITY BOARD, CHANDIGARH. (II) THE EXECUTIVE
ENGINEER, H.S.E.B. NEAR RAGHU NATH MANDIR, YAMUNA NAGAR ROAD,
JAGADHRI.

Present:—

None for the workman.

Shri S. S. Sirohi for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—vide clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Sat Pal workman C/o Dr. Surinder Kumar Sharma, INTUC Office, Railway Road, Jagadhri and H.S.E.B. etc. to this Court. The terms of the reference are as under:—

“Whether termination of services of Shri Sat Pal, workman, is just and correct, if not, to what relief is he entitled?”

Workman through his statement of claim alleged that he had been in the service of respondent management for the last more than three years. On 31st January, 1983 his services were terminated in violation of section 25 (F) of Industrial dispute Act, 1947. So he prayed for his reinstatement with continuity in service and with full backwages.

Respondent management contested the dispute and contended that H.S.E.B. has not been impleaded as a party to this dispute. In view of section 82 of Electricity Supply Act, 1948. So the reference is bad for mis-joinder and non-joinder of necessary parties. It was further contended that workman was employed on daily wages. As soon as the work and budget exhausted services of workman automatically terminated. The workman had not completed service more than 240 days, so no notice, no retrenchment compensation, no intimation to Government was required by the respondent.

On the pleadings of the parties issues were framed. Evidence was recorded. Today the case was fixed for arguments but neither workman nor A. R. appeared, while Shri S. S. Sirohi represented the management. So the reference is dismissed in default.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Dated, the 27th June, 1986.

Endst. No. 1837, dated 28th June, 1986.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-6Lab./6537.—In pursuance of the Provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of (i) Executive Engineer, Haryana State Electricity Board, Shahabad (ii) The Secretary, H.S.E.B. Chandigarh.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Reference No. 95 of 1984

between

SHRI BABU RAM, WORKMAN AND THE MANAGEMENT OF EXECUTIVE ENGINEER,
HARYANA STATE ELECTRICITY BOARD, SHAHABAD (ii) THE SECRETARY,
H.S.E.B., CHANDIGARH

Present :—

Shri Surinder Sharma, for workman.

Shri S. S. Sirohi, for respondent.

AWARD

The Hon'ble Governor of Haryana in exercise of powers conferred,—*vide* clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Babu Ram, c/o Shri Surinder Sharma, INTUC Office, Railway Road, Jagadhri and Haryana State Electricity Board to this Court. The terms of the reference are as under :—

Whether the termination of services of Shri Babu Ram is justified and correct, if not to what relief is he entitled?

Workman through his demand notice dated 22nd August, 1983 alleged that he was employed as a T. Mate in the respondent management since 22nd September, 1973 and was retrenched on 26th September, 1980. He was again taken in service and was again retrenched on 18th July, 1981. Thereafter, he issued demand notice on the basis of the same. The matter was compromised before the

Conciliation Officer under section 12(3) of the Industrial Disputes Act. But that settlement was never implemented, so he prayed that his retrenchment was in violation of section 25 (F) of Industrial Disputes Act, he be reinstated with continuity in service and with full back wages.

Respondent management contested the reference and contended that HSEB has not been sued. Only Xen H.S.E.B., Shahabad and Secretary HSEB have been sued. So the reference is bad for non-joinder of necessary parties. It was further contended that plaintiff was employed as worked charge T. Mate on 13th April, 1973 and was retrenched on 6th September, 1973. Petitioner was again employed as daily wages in October, 1979. He worked up to September, 1980 thereafter he left service of his own and was never retrenched. Thereafter settlement was arrived at on 18th July, 1981. Petitioner was asked to join duty on Bilaspur under the control of Junior Engineer, Bilaspur but workman never reported on duty. So it was prayed that workman has no claim.

On the pleadings of the parties the following issues were framed :—

Issues—

1. Whether termination order, dated 26th September, 1980/1st August, 1981 are justified and correct, if not, its effect.
2. Whether reference is bad for non joinder of necessary parties.
3. Whether reference is not maintainable as alleged.
4. Relief.

I have heard Shri Surinder Sharma for workman and Shri S. S. Sirohi for respondent-management and have perused the oral and documentary evidence placed on the file. My issue wise findings are as under :

Issue No. 1 :—

In support of this issue statement of Shri Om Parkash, UDC MW-1 is that,—*vide* Ex. M-3 workman was asked to report on duty with J.E. Bilaspur, but he did not turn up which shows voluntarily abandonment of job by the workman. On the other hand workman stated that he was never delivered any appointment letter nor he was asked to join duty.

To cut short the controversy between the parties I am of the considered view that when settlement was arrived at under section 12 (3) of the Industrial Disputes Act the workman must have been taken on duty immediately. No doubt the appointment letter is Ex. M-8 is on the file but this letter was never delivered to the workman. If this letter would have been handed over to workman in those circumstances the receipt of the same must have been taken by the Department either in person or through registered post. The workman is after job he was in fact not given any appointment letter nor he was joined on duty. So he is entitled to job as work charged T. Mate on daily wages.

Regarding his back wages I would like to say on the basis of statement of workman himself he stated that he is doing labouring work on daily wages some times he gets work for 15 days or 20 days which shows that after his retrenchment he has been busy in labouring work and was not without work, so he is not entitled to the back wages.

Question of benefit of continuity of service does not arise because he was a daily wage paid workman. I would like to give the relief to the workman of his re-taking in job in his same capacity as he was in the employment of the respondent-management on the last day of removal from his service, so this issue is decided accordingly.

Issue No. 2 :

Shri S. S. Sirohi argued that in view of section 82 of Electricity Supply Act, that HSEB was not sued. So reference is bad. I would like to make here clear that the Secretary, H. S. E. B., and Xen. Division HSEB Shahabad both have been sued that the employee of the HSEB no doubt this is a technical defect but in Labour Laws we should not go strictly according to these technicalities.

Shri Surinder Sharma made oral submission that he failed to understand this technical defect if it exist that he may be allowed to correct the reference accordingly. No opposition was raised by the respondent-management Law Officer to this contention accordingly the A.R. of workman is allowed to amend the reference for correcting the names of parties, so this issue is decided accordingly.

Issue No. 3 :

The reference is maintainable because workman was never delivered appointment letter nor he was asked to join duty, so this issue is decided, in favour of workman, against management.

Issue No. 4 :

For the foregoing reasons on the basis of my issue wise findings it is ordered to the respondent-management that the workman be immediately taken on duty. As I have already discussed in detail under issue No. 1 that workman was not entitled to any back wages and benefit of continuity of service because he was daily wages paid worker. So I pass award regarding the controversy between the parties accordingly.

Dated the 18th June, 1986.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endorsement No. 1774, dated the 21st June, 1986

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/7/86-6-Lab/6839.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer Labour Court, Rohtak in respect of the dispute between the workman and the management of (i) Transport Commissioner, Haryana, Chandigarh, (ii) General Manager, Haryana Roadways, Hissar.

BEFORE SHRI. B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT,
ROHTAK

Reference No. 25 of 86

between

SHRI BHAGWAN DASS, WORKMAN AND THE MANAGEMENT OF (i) TRANSPORT
COMMISSIONER, HARYANA, CHANDIGARH, (ii) GENERAL MANAGER, HARYANA
ROADWAYS, HISSAR

Shri J. C. Anand, A. R. for the workman.

Shri Jagbir Singh, A. R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) the Governor of Haryana referred the following dispute, between the workman Shri Bhagwan Dass and the management of (i) Transport Commissioner, Haryana, Chandigarh, (ii) General Manager, Haryana Roadways, Hissar, to this Court, for adjudication,—vide Haryana Government Gazette Notification No. 4825-30.. dated 31st January, 1986:—

Whether the termination of services of Shri Bhagwan Dass, is justified and in order ?
If not, to what relief is he entitled ?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent as a Assistant Store Keeper on 10th December, 1969 and that in the year 1980 when the petitioner was working as

a Store Keeper, the Joint State Transport Controller, Haryana, Chandigarh stopped the efficiency bar of the petitioner, which he challenged in the Civil Court and earned an *ex parte* decree on 18th January, 1982, which was not set aside on an application filed by the respondent and so, efficiency bar of the petitioner was released, but the respondent,—*vide* his order dated 9th July, 1985 ordered for the termination of services of the petitioner on the ground that his integrity was doubtful and that this termination was brought about without complying with the mandatory provisions of section 25F of the said Act, so, he has prayed for reinstatement with continuity of service and full back wages.

3. In the reply by the respondent, it is pleaded that the petitioner was appointed on *ad hoc* basis subject to the condition that his services shall be terminated on the arrival of approved candidate from the Subordinate Services Selection Board, Haryana. It is further alleged that the case of the petitioner was examined for regularisation of his services but since his service record was not good, so much so that his integrity was reported to be doubtful, State Transport Controller, Haryana, Chandigarh was constrained to order for the termination of services of the petitioner and that due compliance of the provisions of section 25F of the said Act was made.

4. On the pleadings of the parties, the following issue was framed for decision on 23rd April, 1986:—

1. As per terms of reference.

5. In support of his case, the petitioner appeared was WW-1 and the management examined MW-1 Shri Dalip Singh, clerk, Haryana Roadways, Hissar. My findings on the issue framed are as below:—

Issue No. 1 :

6. Employment of the petitioner as alleged and termination of his services on the date alleged by the petitioner is not denied by the respondent. There is no gain-saying on the fact that the petitioner had completed 240 days of actual work with the respondent and as such, his termination squarely falls within the ambit of term "retrenchment" as defined in section 2(oo) of the said Act and as such, the respondent could not have brought about the same without complying with the mandatory provision of section 25F of the said Act. On behalf of the respondent it was faintly contended that since the petitioner was appointed on purely temporary basis initially for a period of six months or till the arrival of approved candidate from the Subordinate Services Selection Board, Haryana, whichever is earlier and further more since the integrity of the petitioner was doubtful during his service tenure, the respondent was fully justified in dispensing of the service with the services of the petitioner. There is a mention in the termination order Ex-M.1 dated 9th July, 1985 that the petitioner shall be paid one months salary in lieu of notice period beside compensation as admissible under the Industrial Disputes Act, 1947, but there is nothing on record to prove that any compliance of this part of the order was ever made by the lower authorities, so much so, that even till today the question of payment of retrenchment compensation as envisaged under section 25F of the said Act has not been settled by the respondent. This speaks volume for the inertia which has set in the functioning of the respondent/Roadways. Furthermore, payment of salary in lieu of notice period and retrenchment compensation should have been simultaneous with the termination of services of the petitioner. This has not been done. So, his termination was patently against the mandatory provisions of section 25F of the said Act, and as such, order of termination cannot be sustained.

7. Now the question as to what relief should be granted to the petitioner. On behalf of the respondent Shri Jagbir Singh contended that since the integrity of the petitioner was doubtful during his service period, reinstatement should not be ordered by this Court, because that will amount to saddling the respondent with a dishonest employee. The contention though tempting is not tenable. It is not on record as to whether his ACR regarding doubtful integrity was ever conveyed, whether any representation was made by the petitioner in that and if so, with what result. Normal rule in case, when order of termination is set aside is to reinstate the workman but under certain compelling circumstances, Court can make a departure from the accepted rule but those circumstances do not exist in the present case. Services of the petitioner were terminated,—*vide* order dated 9th July, 1985. He raised the demand notice within twenty days of his termination, because the demand notice received along with the order of reference is dated 26th July, 1985. So, the petitioner cannot be denied the benefits of back wages and as such, the petitioner is ordered to be reinstated with continuity of service and full back wages. The reference is answered and returned accordingly with no order as to cost.

Dated the 16th July, 1986.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.
Camp Court, Hissar.

Endorsement No. 25-86/1065, dated the 5th August, 1986.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Camp Court, Hissar.